

House File 377 - Introduced

HOUSE FILE 377

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A BILL FOR

1 An Act related to a commutation of sentence request from a
2 class "A" felon sentenced to life imprisonment without the
3 possibility of parole, establishing a life imprisonment
4 review committee to make recommendations in the case of a
5 minimum custody level applicant who has served at least
6 twenty-five years in prison, with reconsideration of a
7 sentence upon the governor's request or inaction, and
8 providing expedited review in the case of an applicant's
9 terminal illness and incapacitation.

10 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 902.1, subsection 1, Code 2021, is
2 amended to read as follows:

3 1. Upon a plea of guilty, a verdict of guilty, or a special
4 verdict upon which a judgment of conviction of a class "A"
5 felony may be rendered, the court shall enter a judgment of
6 conviction and shall commit the defendant into the custody of
7 the director of the Iowa department of corrections for the
8 rest of the defendant's life. ~~Nothing~~ Except as otherwise
9 provided in section 902.4A, nothing in the Iowa corrections
10 code pertaining to deferred judgment, deferred sentence,
11 suspended sentence, or reconsideration of sentence applies to
12 a class "A" felony, and a person. A defendant convicted of a
13 class "A" felony shall not be released on parole unless the
14 governor commutes the defendant's sentence to a term of years
15 or a district court reconsiders the defendant's sentence and
16 resentences the person into the custody of the director of the
17 department of corrections for the rest of the defendant's life
18 with the possibility of parole pursuant to section 902.2A or
19 902.4A.

20 Sec. 2. Section 902.2, Code 2021, is amended to read as
21 follows:

22 **902.2 Commutation procedure for class "A" felons.**

23 A person who has been sentenced to life imprisonment under
24 section 902.1 may, no more frequently than once every ten
25 years, make an application to the governor requesting that the
26 person's sentence be commuted to a term of years. The director
27 of the Iowa department of corrections may make a request to
28 the governor that a person's sentence be commuted to a term of
29 years at any time. Upon receipt of a request for commutation,
30 the governor shall, within thirty days of receipt of the
31 request, send a copy of the request to the Iowa board of parole
32 for investigation and along with recommendations as to whether
33 the person should ~~be considered for~~ receive commutation. ~~The~~
34 Within one hundred twenty days of receipt of such request, the
35 board shall conduct an interview of the class "A" felon and

1 shall make a report of its findings and recommendations to
2 the governor. Any decision to recommend commutation shall be
3 by a majority vote of the board. Notwithstanding any other
4 provision of this section to the contrary, after the first
5 twenty-five years of a person's sentence to life imprisonment
6 under section 902.1, if the person is, at the time of
7 application, classified as minimum security custody level, the
8 process for a request for commutation shall be as provided in
9 section 902.2A. Alternatively, an application for commutation
10 by or on behalf of any person sentenced to life imprisonment
11 under section 902.1 when the facts described in section 902.2B
12 exist shall be made and processed according to section 902.2B.

13 **Sec. 3. NEW SECTION. 902.2A Life imprisonment review after**
14 **twenty-five years.**

15 1. For the purposes of this section and section 902.4A:

16 *a. "Applicant"* means a person convicted of a class
17 "A" felony and sentenced to life imprisonment without the
18 possibility of parole.

19 *b. "Committee"* means the life imprisonment review committee
20 established pursuant to this section.

21 *c. "Victim"* means the same as defined in section 915.10.

22 2. A life imprisonment review committee is established.
23 The purpose of the committee shall be to make commutation
24 recommendations to the governor and to facilitate
25 reconsideration by the district court regarding applicants
26 under this section.

27 *a.* The governor shall appoint five members to the committee,
28 at least one of whom is a member of a racial minority, and two
29 alternates to the committee. Committee members and alternates
30 may include representatives from the Iowa state chapter of the
31 national association for the advancement of colored people
32 or other organizations that advocate on behalf of racial or
33 ethnic minorities, community-based organizations as defined
34 in section 7D.15, organizations focused on the reentry
35 of incarcerated individuals, the department of workforce

1 development, the department of public safety, the office of
2 the attorney general, and a judicial district department
3 of correctional services. Members may also include county
4 attorneys, defense attorneys, law enforcement officers, retired
5 judges, retired prison officials including wardens, deputy
6 wardens, and treatment directors, criminal justice researchers
7 and educators, and clergy.

8 *b.* Members shall serve four-year terms except for the terms
9 of the initial members, which shall be staggered so that at
10 least one of the members' terms expire each calendar year. A
11 member may serve up to two consecutive terms. The committee
12 shall elect a chairperson who shall serve a one-year term and
13 may be elected to two consecutive terms.

14 *c.* Decisions of the committee shall require a majority of
15 its members. Alternates shall be included in lieu of members
16 unable to participate so that committee deliberations always
17 include five members.

18 3. After the first twenty-five years of an applicant's
19 sentence to life imprisonment under section 902.1, an applicant
20 who is at the time of application classified as minimum
21 security custody level may, no more than once every three
22 years, make an application to the governor requesting that
23 the applicant's sentence be commuted to a term of years. The
24 three-year limitation shall be waived for a person submitting
25 an application under section 902.2B. Upon receipt of an
26 application, or upon a request for commutation from the
27 director of the Iowa department of corrections on behalf of
28 an applicant at any time, the governor shall, within thirty
29 days of receipt of the application or request, send a copy of
30 the application or request to the committee for investigation
31 and recommendation as to whether the applicant should
32 receive commutation. Notwithstanding any other provision
33 of law to the contrary, the governor may, before or after
34 receiving the recommendation of the committee, commute the
35 applicant's sentence to a term of years or the district court

1 may resentence the applicant to life imprisonment with the
2 possibility of parole pursuant to section 902.4A.

3 4. Upon receipt of an application for commutation under
4 this section, the committee shall conduct an investigation
5 concerning the applicant and the factors specified in
6 subsection 6. The department of corrections shall provide
7 the committee with access to the applicant's case file. The
8 committee shall consider information submitted by the applicant
9 along with the applicant's case file, any recommendations and
10 letters received on behalf of the applicant and any letters
11 from any victim of the offense for which the applicant is
12 incarcerated, and any other relevant information.

13 5. *a.* The committee shall set a date for a hearing, which
14 shall occur no later than one hundred twenty days after the
15 committee's receipt of the application for commutation, to
16 determine whether to recommend the applicant for commutation.
17 However, if the one-hundred-twenty-day limit would require more
18 than two hearings in any calendar month, the committee may
19 extend this limitation by consecutive thirty-day periods as
20 necessary for the committee to hold no more than two hearings
21 per month, in the order of the date an application is received
22 and then, if necessary, in the order of greatest to least
23 amount of time served.

24 *b.* The committee shall notify the applicant and any
25 registered victim at least thirty days before the hearing
26 date, and the applicant and the applicant's attorney, if
27 any, shall have the right to be present for the hearing by
28 videoconference.

29 *c.* The committee shall, within thirty days following the
30 hearing, make a recommendation for or against commutation of
31 the applicant's sentence, and shall forward its recommendation
32 and report to the governor and to the board of parole. The
33 committee's decision shall not be based upon the presence or
34 absence of any single factor listed in subsection 6. The board
35 of parole may, within thirty days of receipt of the committee's

1 recommendation, notify the governor of any additional
2 recommendation in support of or contrary to the committee's
3 recommendation. Any recommendation shall be made by a majority
4 vote of the board of parole.

5 6. In determining whether to recommend commutation of
6 the applicant's sentence, the committee shall consider all
7 circumstances including but not limited to all of the following
8 factors:

9 a. Whether the applicant has performed acts that tend to
10 indicate rehabilitation, including but not limited to whether
11 the applicant participated in rehabilitative, educational,
12 or vocational programs, if available at the applicant's
13 classification level and facility, whether the applicant
14 utilized available materials for self-improvement, and whether
15 the applicant participated in other programs designed to
16 promote behavior change and to prepare offenders for successful
17 reentry into the community.

18 b. Whether the applicant's case file demonstrates that the
19 applicant shows respect for authority and has been deemed a
20 positive influence on others.

21 c. The applicant's disciplinary record in prison.

22 d. Family or community supports of the applicant, including
23 whether the applicant has maintained relationships with
24 persons outside of prison through letters, calls, or visits,
25 and whether the applicant has eliminated contact with persons
26 outside of prison who are currently involved in criminal
27 activity.

28 e. Whether a meaningful plan for housing and support is
29 in place if the applicant is released indicating that the
30 applicant can be a contributing and positive member of society.

31 f. The applicant's education and employment history, before
32 and during incarceration, including employable skills for
33 self-support if and when released, and any references received
34 from persons who have served as work supervisors during the
35 applicant's period of incarceration.

1 *g.* The circumstances of the applicant's crime, including
2 the degree of participation by the applicant and the nature and
3 severity of the crime, including any of the following:

4 (1) Whether the crime was committed while participating in
5 another felony.

6 (2) The number of victims.

7 (3) The heinous, brutal, cruel manner of the crime,
8 including whether the crime involved torture.

9 *h.* Whether the applicant was convicted of murder pursuant to
10 felony murder or aiding and abetting murder provisions of law,
11 but did not directly commit the act of murder.

12 *i.* Whether the applicant's sentence of life without parole
13 was entered following a plea signed and accepted by all parties
14 in which the plea agreement recommended a different sentence.

15 *j.* The level of compulsion, duress, influence, abuse, or
16 trauma, if any, exerted upon the applicant, but not to such an
17 extent as to constitute a defense.

18 *k.* The capacity of the applicant to appreciate the
19 criminality of the conduct, including whether the applicant's
20 ability to conform the applicant's conduct with the
21 requirements of the law was substantially impaired and any
22 intellectual or mental incapacity at the time of the crime.

23 *l.* The chronological age of an applicant who was twenty-five
24 years of age or less at the time of the crime and the
25 features of youth, including immaturity, impetuosity, and
26 failure to appreciate risks and consequences; any familial
27 or peer pressure that may have affected the applicant; and
28 the competencies of youth including but not limited to the
29 applicant's inability to deal with peace officers or the
30 prosecution or the applicant's incapacity to assist the
31 applicant's attorney in the applicant's defense.

32 *m.* The family and home environment that surrounded the
33 applicant prior to incarceration; adult support or supervision
34 in the applicant's childhood or youth; and any history of
35 psychological or physical trauma, domestic violence, or

1 significant stress.

2 *n.* Whether the applicant has any cognitive limitations due
3 to mental illness, any developmental disability, intoxication
4 or the influence of a drug or controlled substance, or any
5 other factors that did not constitute a defense but influenced
6 the applicant's involvement in the crime.

7 *o.* The applicant's remorse and acceptance of responsibility.

8 *p.* The applicant's level of maturity, the likelihood of
9 the commission of further offenses by the applicant including
10 evidence that reflects whether age, time served, and diminished
11 physical or mental condition or terminal illness, if any, have
12 reduced the applicant's risk for future violence.

13 *q.* The impact of the crime on each victim through the use of
14 a victim impact statement, as defined in section 915.10. The
15 victim impact statement may include information relating to the
16 applicant's crime.

17 *r.* The impact of the crime on the community, including
18 evidence that circumstances have changed since the applicant's
19 original sentencing so that the applicant's continued
20 incarceration is no longer in the interest of justice.

21 *s.* The threat posed by the applicant to the safety of the
22 public or any particular person.

23 *t.* Whether the applicant's application is supported by a
24 recommendation from one or more of the following persons:

- 25 (1) The director of the department of corrections.
26 (2) The chairperson of the Iowa board of parole.
27 (3) The warden from a prison where the applicant has been
28 incarcerated.

29 7. Upon receipt of any report and recommendation from the
30 committee and the board of parole, the governor may commute
31 the applicant's sentence of life imprisonment without parole
32 to a term of years. Alternatively, the governor may deny the
33 commutation or take no action.

34 8. Upon the expiration of three months after a
35 recommendation by the committee in favor of commutation

1 was forwarded to the governor under this section, if the
2 governor has not taken any action on the application, the
3 committee shall, within thirty days of the expiration of the
4 three-month period, submit its recommendation and report, with
5 any associated recommendation or report from the board of
6 parole, to the district court in the county that originally
7 sentenced the applicant for reconsideration of the applicant's
8 sentence pursuant to section 902.4A. Alternatively, at any
9 time after receipt of any recommendation and report from the
10 committee, the governor may direct the committee to submit that
11 recommendation and report, with any associated recommendation
12 or report from the board of parole, within thirty days
13 after direction from the governor, to the district court for
14 reconsideration of the applicant's sentence pursuant to section
15 902.4A.

16 9. If the committee made a recommendation against
17 commutation and the governor has not granted commutation,
18 the committee shall send a summary report to the applicant
19 within four months of its report stating the reasons for its
20 recommendation against commutation.

21 10. An applicant whose life sentence has been commuted
22 to a term of years not already fully served or who has been
23 resentenced pursuant to section 902.4A shall be placed on
24 the corrections continuum pursuant to chapter 901B, and the
25 terms and conditions of parole, including violations, shall be
26 subject to the procedures specified in chapters 906 and 908 and
27 to rules adopted under those chapters for persons on parole.

28 **Sec. 4. NEW SECTION. 902.2B Expedited review of class "A"**
29 **felony sentence upon terminal illness.**

30 1. An application to the governor requesting that an
31 applicant's sentence of life imprisonment under section
32 902.1 be commuted to a term of years already served may be
33 made under this section by the applicant, a family member of
34 the applicant, or any other personal representative of the
35 applicant if the following circumstances exist:

1 *a.* Any of the following:

2 (1) The applicant is terminally ill with an incurable
3 condition caused by an illness or disease that would produce
4 death within six months, as determined by a physician employed,
5 referred, or consulted by the department of corrections.

6 (2) The applicant is permanently medically incapacitated
7 with a medical condition including but not limited to due to
8 a coma, persistent vegetative state, brain death, ventilator-
9 dependency, or loss of control of muscular or neurological
10 function, that renders the applicant permanently unable to
11 perform activities of basic daily living and that results in
12 the applicant requiring twenty-four-hour total care, provided
13 the incapacitation did not exist at the time of the applicant's
14 original sentencing.

15 *b.* The conditions under which the applicant may be released
16 do not pose a threat to public safety.

17 2. Within three business days of receipt of an application
18 submitted under this section, the governor shall send a copy
19 of the request to the board of parole, which shall, within
20 twenty days of receipt of the request, hold a hearing to
21 determine whether these facts are established. The department
22 of corrections shall provide the board of parole with access
23 to the applicant's case file and relevant medical information.
24 The board of parole shall, no later than ten business days
25 after the hearing, determine whether the facts required under
26 this section have been established and report its decision to
27 the governor. The board's determination shall be by a majority
28 vote.

29 3. Upon receipt of the board's report, the governor may
30 commute the applicant's sentence of life imprisonment without
31 parole to a term of years. Alternatively, the governor may
32 deny the commutation or take no action.

33 Sec. 5. NEW SECTION. **902.4A Reconsideration of a class "A"**
34 **felony sentence.**

35 1. Upon receipt of the report and recommendation of the

1 committee as provided in section 902.2A, the district court,
2 in the county that originally sentenced the applicant, shall
3 order the applicant to be returned to the court, at which time
4 the court shall review the applicant's sentence and reaffirm
5 it or substitute a sentence of commitment of the applicant to
6 the custody of the director of the department of corrections
7 for the rest of the applicant's life with the possibility
8 of parole. Copies of the order to return the applicant to
9 the court shall be provided to the attorney for the state,
10 the applicant, and the applicant's attorney, if any. The
11 court's final order in the proceeding shall be delivered to the
12 applicant personally or by regular mail.

13 2. The court shall conduct a hearing to consider any
14 evidence deemed appropriate by the court including but not
15 limited to the factors set forth in section 902.2A.

16 3. The court's decision to reaffirm or substitute a sentence
17 under this section is subject to appeal only for errors of law
18 or an abuse of discretion.

19

EXPLANATION

20 The inclusion of this explanation does not constitute agreement with
21 the explanation's substance by the members of the general assembly.

22 This bill relates to a commutation of sentence request from
23 a class "A" felon sentenced to life imprisonment without the
24 possibility of parole, establishes a life imprisonment review
25 committee to make recommendations in the case of a minimum
26 custody level applicant who has served at least 25 years in
27 prison, with reconsideration of a sentence upon the governor's
28 request or inaction, and provides an expedited review in the
29 case of an applicant's terminal illness and incapacitation.

30 Under current law, unless a defendant was under the age
31 of 18 at the time an offense was committed, upon a plea of
32 guilty, a verdict of guilty, or a special verdict upon which a
33 judgment of conviction of a class "A" felony may be rendered,
34 the court shall enter a judgment of conviction and shall commit
35 the defendant into the custody of the director of the Iowa

1 department of corrections for the rest of the defendant's life.
2 A person convicted of a class "A" felony shall not be released
3 on parole unless the governor commutes the sentence to a term
4 of years.

5 The bill provides that a defendant convicted of a class "A"
6 felony shall not be released on parole unless the governor
7 commutes the defendant's sentence to a term of years or the
8 district court resentsences the defendant into the custody of
9 the director of the department of corrections for the rest of
10 the defendant's life with the possibility of parole pursuant to
11 new Code section 902.2A or 902.4A.

12 Under current law, a person who has been sentenced to life
13 imprisonment may, no more than once every 10 years, make an
14 application to the governor requesting that the person's
15 sentence be commuted to a term of years. The director of
16 the Iowa department of corrections may make a request to the
17 governor that a person's sentence be commuted to a term of
18 years at any time.

19 The bill provides that, upon receipt of a request for
20 commutation, the governor shall, within 30 days of receipt
21 of the request, send a copy of the request to the Iowa board
22 of parole for investigation along with recommendations as to
23 whether the person should receive commutation. Within 120
24 days of receipt of such request, the board shall conduct an
25 interview of the class "A" felon and shall make a report of its
26 findings and recommendations to the governor. Any decision to
27 recommend commutation shall be by a majority vote of the board.
28 Notwithstanding any other provision to the contrary in the
29 bill, after the first 25 years of a person's sentence to life
30 imprisonment, if the person is at the time of the application
31 classified as minimum security custody level, the process for a
32 request for commutation shall be as provided in Code section
33 902.2A (life imprisonment review after 25 years), created in
34 the bill. Alternatively, an application for commutation by or
35 on behalf of any person sentenced to life imprisonment when the

1 facts described in Code section 902.2B (expedited review of
2 class "A" felony sentence upon terminal illness), created in
3 the bill, shall be made and processed according to that Code
4 section.

5 The bill establishes a life imprisonment review committee
6 to review life sentences after a person has served 25 years.
7 The bill defines "applicant" as a person convicted of a class
8 "A" felony and sentenced to life imprisonment without the
9 possibility of parole, "committee" as the life imprisonment
10 review committee established in the bill, and "victim" as a
11 person who has suffered physical, emotional, or financial harm
12 as the result of a public offense or a delinquent act, other
13 than a simple misdemeanor, committed in the state. "Victim"
14 also includes the immediate family members of a victim who
15 died or was rendered incompetent as a result of the offense or
16 who was under the age of 18 at the time of the offense. The
17 committee is established to make commutation recommendations
18 to the governor and facilitate reconsideration by the district
19 court regarding applicants. The bill provides provisions
20 relating to the composition of the committee and voting
21 requirements.

22 The bill provides that after the first 25 years of an
23 applicant's sentence to life imprisonment, an applicant who
24 is at the time of application classified as minimum security
25 custody level may, no more than once every three years, make
26 an application to the governor requesting that the applicant's
27 sentence be commuted to a term of years. This three-year
28 limitation shall be waived in the case of an applicant who
29 is diagnosed with a terminal illness. Upon receipt of an
30 application, or upon a request for commutation from the
31 director of the Iowa department of corrections on behalf of
32 an applicant at any time, the governor shall, within 30 days
33 of receipt of the application or request, send a copy of the
34 application or request to the committee for investigation
35 and recommendation as to whether the applicant should

1 receive commutation. Notwithstanding any other provision
2 of law to the contrary, the governor may, before or after
3 receiving the recommendation of the committee, commute the
4 applicant's sentence to a term of years or the district court
5 may resentence the applicant to life imprisonment with the
6 possibility of parole.

7 The bill provides that upon receipt of an application for
8 commutation, the committee shall conduct an investigation and
9 hold a hearing concerning the applicant and shall consider
10 the applicant's circumstances according to certain factors as
11 provided in the bill. The committee shall set a date for a
12 hearing, which shall occur no later than 120 days after the
13 committee's receipt of the application for commutation unless
14 the 120-day limit would require more than two hearings in
15 any calendar month. The committee may extend this limit by
16 consecutive 30-day periods as necessary for the committee to
17 hold no more than two hearings per month. The committee shall,
18 within 30 days following the hearing, make a recommendation for
19 or against commutation of the applicant's sentence, and shall
20 forward its recommendation and report to the governor and to
21 the board of parole. The board of parole may, within 30 days
22 following the hearing, notify the governor of any additional
23 recommendations or reports in support of or contrary to the
24 committee's recommendation. Any recommendation shall be by a
25 majority vote of the board of parole.

26 The bill provides that upon receipt of any reports and
27 recommendations from the committee and from the board of
28 parole, the governor may commute the applicant's sentence
29 of life imprisonment without parole to a term of years,
30 deny the commutation, or take no action. Three months after
31 a recommendation by the committee in favor of commutation
32 was forwarded to the governor, if the governor has taken no
33 action on the application, the committee shall, within 30
34 days of the expiration of the three-month period, submit any
35 recommendations and reports to the district court in the county

1 that originally sentenced the applicant for reconsideration
2 of the applicant's sentence pursuant to Code section 902.4A
3 (district court reconsideration of a class "A" felony
4 sentence), created in the bill. At any time after receipt of
5 a recommendation and report from the committee, the governor
6 may direct the committee to submit any recommendations and
7 reports, within 30 days after receiving direction from the
8 governor, to the district court for reconsideration of the
9 applicant's sentence. If the committee made a recommendation
10 against commutation and the governor denied or has not granted
11 commutation, the committee shall send a summary report to the
12 applicant within four months of its report accompanied by the
13 reasons for its recommendation against commutation.

14 The bill provides for an expedited review of class "A"
15 felony sentences when an applicant has a terminal illness. An
16 application to the governor requesting that a person's sentence
17 of life imprisonment be commuted to a term of years already
18 served may be made by an applicant, an applicant's family
19 member, or any other personal representative of an applicant
20 if the applicant is terminally ill with an incurable condition
21 caused by an illness or disease as detailed in the bill and the
22 conditions under which the applicant would be released do not
23 pose a threat to public safety.

24 The bill provides that upon receipt of the report and
25 recommendation of the committee, the district court, in the
26 county that originally sentenced the applicant, shall order the
27 applicant to be returned to the court, at which time the court
28 shall review its previous sentence and reaffirm the sentence
29 or substitute a sentence of commitment of the applicant to
30 the custody of the director of the department of corrections
31 for the rest of the applicant's life with the possibility of
32 parole. The court shall conduct a hearing to consider any
33 evidence deemed appropriate by the court. The court shall base
34 its determination on the evidence of those factors detailed
35 in the bill. The court's decision to reaffirm or substitute

1 a sentence is subject to appeal only for errors of law or an
2 abuse of discretion.